

***What Every Member of the
Trade Community Should Know About:***

The Agricultural Actual Use Provisions

**Tariff Classification Issues of Headings
9817.00.50 and 9817.00.60**



**An Advanced Level
Informed Compliance Publication of the
U.S. Customs Service**

January 1998

PREFACE

On December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), which is also known as the Customs Modernization Act or “Mod Act,” became effective. These provisions amended many sections of the Tariff Act of 1930 and related laws. Two new concepts which emerge from the Mod Act are “*informed compliance*” and “*shared responsibility*.” These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the Mod Act imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act, as amended, (19 U.S.C. §1484) the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met. The Customs Service is then responsible for fixing the final classification and value of the merchandise. The failure of an importer of record to exercise reasonable care may lead to delay in the release of merchandise or the imposition of penalties.

This office has been given a major role in meeting Customs informed compliance responsibilities. In order to provide information to the public, Customs intends to issue a series of informed compliance publications, and possibly CD-ROMs and videos, on topics such as value, classification, entry procedures, determination of country of origin, marking requirements, intellectual property rights, record keeping, drawback, penalties and liquidated damages.

The National Commodity Specialists Division of the Office of Regulations and Rulings has prepared this publication on Agricultural Actual Use, as part of a series of informed compliance publications regarding the classification of imported merchandise. It is hoped that this material, together with seminars and increased access to Customs rulings, will help the trade community in improving voluntary compliance with the Customs laws.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs issues, an importer may wish to obtain a ruling under Customs Regulations, 19 C.F.R. Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in Customs matters. Reliance solely on the general information in this pamphlet may not be considered reasonable care.

Comments and suggestions are welcomed, and should be addressed to the Assistant Commissioner at the Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229.

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All references, unless otherwise indicated, are to the current edition of title 19, Code of Federal Regulations, as amended by subsequent Federal Register notices. The reader should check for any additions or amendments issued after the date of this publication.

Agricultural Actual Use

Introduction

The merchandise assignments of a typical Import Specialist team can cover a fairly wide variety of goods, ranging through such far flung industries as automobiles or aircraft down to very specialized merchandise such as spraying appliances for etching, stripping or cleaning semiconductor wafers. The diversity and complexity of these assignments is at least evenly matched by the multitude and frequency of questions and inquiries from the importing public on tariff classification issues imbedded in the various commodities. One assignment with a fairly large number of complex and confusing issues is that of two special classification provisions associated with agriculture. These two provisions of the Harmonized Tariff Schedule of the United States (HTSUS) are:

9817.00.50 Machinery, equipment and implements to be used for agricultural or horticultural purposes

and

9817.00.60 Parts to be used in articles provided for in headings 8432, 8433, 8434 and 8436, whether or not such parts are principally used as parts of such articles and whether or not covered by a special provision within the meaning of additional U.S. rule of interpretation 1(c)

Please be advised that any references to tariff provisions, notes or other citations are those which were in effect on the date of this publication and are used for discussion purposes only. You are urged to consult the current edition of these references for the most up-to-date information.

Almost all of the agricultural provisions found in

Chapter 84 provide for a free rate of duty. The special provisions of headings 9817.00.50 and 9817.00.60 may be applied to any article which qualifies for consideration, generally articles which are used for agricultural purposes but which were not classified, for whatever reason, under an unconditionally free agricultural provision. Among the key terms in these two special provisions is the phrase "to be used". This phrase, of course, makes these two headings **actual use** provisions. As such, an article must satisfy the statutory requirements set forth in Additional U.S. Note of Interpretation 1(b), HTSUS, which reads as follows:

a tariff classification controlled by the actual use to which the imported goods are put in the United States is satisfied only if such use is intended at the time of importation, the goods are so used and proof thereof is furnished within 3 years after the date the goods are entered.

This rule governs the certification process of an actual use provision. The process, as many of you know, is not always easy or straight forward and sometimes seems downright impossible.

One important caution to be made at the start is that the primary classification of a good must be known before proceeding with the rest of the process. Without this information, it will not be known whether the article qualifies for consideration under the headings and it will also save time and trouble at the time of liquidation if the merchandise does not satisfy the actual use requirements.

A second important caution is that the merchandise described herein must be a product of a "column one" country¹ to be eligible for the Chapter 98 free rates of duty;

¹ The rates of duty in column 1 of the Harmonized Tariff Schedule of the United States are rates which are applicable to all products other than those of countries enumerated below:

otherwise, the rates of duty normally applicable in the absence of headings 9817.00.50 and 9817.00.60 will be imposed.

The purpose of this presentation is to clarify the coverage of these provisions and to smooth out, or at least minimize, the difficulties associated with the classification process. Furthermore, we will deal comprehensively with the certification process itself and offer some useful guidelines covering intent and proof of use.

The Three Part Test

The Harmonized Tariff Schedule of the United States consists, as we all know, of 99 chapters. The first 97 chapters form the international portion of the tariff that is utilized by all countries which have adopted the tariff. Chapters 98 and 99 of the HTSUS are United States chapters which have been added to the international portion by Congress. Virtually every item that is imported into the United States will receive a classification from within the first 97 chapters. Chapters 98 and 99 provide an additional classification that grants special treatment to qualifying articles.

The classification of merchandise under the HTSUS, of course, is governed by the General Rules of Interpretation (GRIs), found at the front of the tariff. Once an article is classified using the GRIs and any pertinent section and chapter notes, consideration may be given to the special classification provisions, if appropriate. If an article is described by a provision of Chapter 98 and all applicable

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1. Afghanistan
 2. Kampuchea
 3. North Korea
 4. Cuba
 5. Laos
 6. Vietnam

requirements are met, then the Chapter 98 provision and its duty rate prevail over the classification and tariff rate from the international portion of the tariff. See Chapter 98, U.S. Note 1. The Chapter 98 provision would then be the ultimate classification for purposes of importation into the United States.

Headquarters ruling 086211 of March 24, 1990 was the first of many Headquarters rulings to apply a three part test to any goods which claim heading 9817.00.50 or 9817.00.60 treatment. Headquarters stated that before an article could be classified in either of these headings a three part test had to be applied:

- (1) the articles must not be among the long list of exclusions to heading 9817.00.50 or 9817.00.60 under Section XXII, Chapter 98, Subchapter XVII, U.S. Note 2;
- (2) the terms of heading 9817.00.50 or 9817.00.60 must be met in accordance with GRI 1; and
- (3) the merchandise must meet the actual use conditions required in accordance with sections 10.131 - 10.139 of the Customs Regulations (19 CFR 10.131 - 10.139).

This test has been applied time and again and its validity has not been questioned. A good must satisfy each part of the test, taken in order. If a good fails any part of the test, then recourse would have to be made to its primary classification.

Exclusions

The first and easiest part of the test requires referral to the long list of articles which are excluded from consideration under heading 9817.00.50 or 9817.00.60. This will be found in Section XXII, Chapter 98, Subchapter XVII, U.S. Note 2, which reads as follows:

The provisions of headings 9817.00.50 and 9817.00.60 do not apply to:

- (a) articles provided for in chapter 25;
- (b) articles provided for in subheading 3212.10;
- (c) articles provided for in subheading 3926.90.30;
- (d) articles of leather or of fur on the skin;
- (e) articles of textile material;
- (f) articles provided for in section XIII (except heading 6808 and subheadings 6809.11, 7018.10, 7018.90, 7019.40, 7019.51, 7019.52 and 7019.59);
- (g) articles provided for in chapter 71;
- (h) articles provided for in chapter 72;
- (ij) articles provided for in chapter 73 (except subheadings 7308.10, 7308.20, 7308.40 and 7308.90, subheadings 7315.81 through 7315.89, subheadings 7319.20, 7319.30, 7325.10, 7325.91, 7326.11 and 7326.19);
- (k) articles provided for in chapter 74 (except subheadings 7419.10 and 7419.91);
- (l) articles provided for in chapter 75;
- (m) articles provided for in chapter 76 (except heading 7610);
- (n) articles provided for in chapter 78;
- (o) articles provided for in chapter 79 (except gutters, roof capping, skylight frames and other fabricated building components, of zinc);
- (p) articles provided for in chapter 80;
- (q) articles provided for in chapter 81 (except subheadings 8101.99 and 8102.99);
- (r) articles provided for in chapter 82;
- (s) articles provided for in chapter 83;
- (t) articles provided for in subheadings 8419.81.10, 8419.81.50, 8419.81.90, 8427.10, 8427.20, 8427.90 and 8431.20, headings 8432, 8433 and 8434, subheadings 8435.10 and 8435.90, heading 8436, subheadings 8438.80, 8468.10, 8472.90.40 and 8479.89, subheadings 8482.10.10 through 8482.99.65 (other than subheading 8482.91) and subheadings 8483.10.50 and 8485.10;
- (u) articles provided for in chapter 85 (except subheadings

- 8519.92 through 8519.99, headings 8523 and 8524, subheadings 8532.90 and 8539.90, subheadings 8543.11 through 8543.81, subheadings 8543.89.60, 8543.89.80, 8543.89.85, 8543.89.90, 8543.90, 8544.70, 8546.90, 8547.20 and 8548.90);
- (v) articles provided for in chapter 86;
 - (w) articles provided for in chapter 87 (except bicycles and other cycles, not motorized, and parts thereof), but interchangeable agricultural and horticultural implements are classifiable in subheading 9817.00.50 even if mounted at the time of importation on a tractor provided for in chapter 87;
 - (x) articles provided for in chapter 88 (except heading 8805);
 - (y) articles provided for in chapter 89 (except headings 8901, 8902 and 8904, subheadings 8905.10 and 8905.20, and headings 8907 and 8908);
 - (z) articles provided for in subheadings 9006.62, 9032.89.20, 9032.89.40, 9032.90.20 and 9032.90.40;
 - (aa) articles provided for in subheadings 9101.12, 9102.12, 9102.91.20, 9103.10.20, 9104.00.05 and 9104.00.45;
 - (ab) articles provided for in heading 9405 (except subheadings 9405.60.60 and 9405.92);
 - (ac) articles provided for in subheadings 9505.10.10, 9506.21.40 and 9506.21.80;
 - (ad) articles provided for in subheading 9603.50.00, headings 9604.00.00 and 9605.00.00 and subheading 9616.10.00; or
 - (ae) articles provided for in heading 9705.

Very simply, if the primary classification of an article is within one of the provisions enumerated in the Note, then it has failed the first part of the test and the actual use certification process stops at this point, with liquidation proceeding at the rate prescribed by the primary classification, assuming no other special provisions or programs apply. Examples of this exclusionary action may be found in several rulings: HQ 083969 of May 26, 1989 - wire containment articles used to protect the root systems of shrubs and small trees during transport classified in subheading 7326.20, excluded by Note 2(ij); NY 883904 of March 13, 1993 - weed trimmer designed principally for agricultural use for cutting extra heavy vegetation around buildings, corrals, etc. classified in subheading 8508.80, excluded by Note 2 (u); NY 892189 of November 26, 1993 - aluminum wire stakes used in the gardening marketplace

commercially throughout the United States for supporting plants classified in subheading 7616.90, excluded by Note 2(m); and HQ 954656 of July 28, 1993 - crop dusting airplane classified in subheading 8802.20, excluded by Note 2(x).

Important Terms

Assuming a successful passage of the first part of the test, the second part calls for the merchandise to be included within the terms of the headings as required by GRI 1. GRI 1, of course, requires that before an item may be classified under a heading, that item must first meet the terms of that heading. For heading 9817.00.50 this means that the good must be "machinery", "equipment" or "implements" used for "agricultural or horticultural purposes". For heading 9817.00.60, this means that the good must be "parts" and actually used in the machinery of headings 8432, 8433, 8434 and 8436, with the exception of "parts" or components of functional units under Section XVI, Note 4. More on this later.

As for the terms of heading 9817.0050, we will refer to the definitions found in *Webster's II New Riverside University Dictionary* (1988). It must be emphasized rather strongly that these definitions are for the purposes of heading 9817.00.50 only and should not be applied to any other headings.

Machinery: 1. Machines or machine parts in general. 2. The working parts of a machine. 3. A system of related elements that operates in a definable way.

Equipment: 1. The act of equipping or state of being equipped. 2. Something with which one is equipped.

Implement: 1. A tool, utensil, or instrument for

doing a task. 2. An article used to outfit or equip.

Agriculture: The science, art, and business of cultivating the soil, producing crops, and raising livestock.

Horticulture: The science, art, and business of cultivating fruits, vegetables, flowers, and plants.

These definitions are the common definitions of the terms and have been followed in many Headquarters rulings. See, for example, HQ 955597 of May 31, 1994. It should be noted that parts of the machinery, equipment or implements of goods which meet these terms are not included in this heading. The determinative factor in this decision is the intent of Congress. By specifically referring to parts within heading 9817.00.60 it is clear that Congress considered the issue of parts of machinery. Since heading 9817.00.50 has no reference to parts it appears that Congress did not intend for all items used as a part of agricultural or horticultural equipment to receive duty free treatment. See HQ 087076 of June 14, 1990.

For the second part of the test, the initial determination to be made is what agricultural or horticultural pursuit is in question. You need to identify the activity in which the good is engaged or employed; if there is a nexus, a clear connection, between that good and an agricultural or horticultural purpose, then you have satisfied the initial determination. For example, in HQ 952796 of January 29, 1993, Customs determined that certain plastic sheeting which assists in raising swine by its use as a floor mat, wall liner, and for easy sanitary maintenance, is clearly engaged in an agricultural pursuit, since the care and maintenance of livestock is agricultural in nature. Certain endeavors are clearly not agricultural in nature. For instance, Headquarters has found on two separate occasions that "aquaculture", the "farming" of fish for commercial purposes, does not conform to the definition

of agriculture and therefore certain fish tanks and their supporting equipment could not be considered agricultural equipment. On another occasion, it was held by Headquarters that a sap evaporator used to process sap into maple syrup was not involved in an agricultural pursuit. It was obvious that the collection of sap was agricultural in nature, but Headquarters drew the line at that point and said that the processing of sap into maple syrup, using the evaporator in the process, is not an agricultural purpose and that this process was more than a simple preparation of a product for market.

Sometimes, however, certain distinctions are not quite so clear. NY 873312 of May 8, 1992, held that certain fly catchers, strips of glue on paper, which were used to control pests around cattle, demonstrated an agricultural purpose, that is, the good assisted in the care and maintenance of livestock. On the other hand, certain insect traps of NY 880892 of December 14, 1992, which were used to control the insect population in forests and thus helped to conserve the trees, were held to serve an environmental purpose and not an agricultural purpose of heading 9817.00.50.

The next determination to be made is whether the subject merchandise is "machinery", "equipment" or "implement" within the meaning of those terms as expressed earlier. Again, sometimes this is quite clear while at other times you may have a battle on your hands. There have been several rulings in which the importer claimed that his article was within the terms of heading 9817.0050 but which, upon closer examination, failed to meet the definitions of those terms. Earlier we mentioned that certain plastic sheeting was engaged in an agricultural pursuit since articles made from it after importation were used in the care and maintenance of swine; the raising of livestock, as we have said, being a legitimate agricultural purpose. However, since the plastic was imported in material condition, that is, in sheets of 4 feet by 8 feet, Headquarters said that the sheeting as imported was not an unfinished article since it did not have the essential

character of a complete or finished article which is used in agriculture. As a sheet, the identity of the article was not fixed with certainty. Even though articles made from it were intended for use in the care and keeping of hogs, in its condition as imported the plastic sheeting did not have the requisite attributes of an agricultural implement and heading 9817.0050 was ruled out. See HQ 952796 of January 29, 1993. Later on, however, this same importer showed a certain amount of plasticity of his own and asked for a ruling on his plastic sheeting when imported cut to the size of an article with a demonstrated agricultural use, in this case as gates/doors to a hog pen. Headquarters agreed with the importer that the cut to size pieces had a fixed identity in their imported condition and therefore the goods were within the meaning of the terms of heading 9817.0050. See HQ 955597 of May 31, 1994.

Remember we said that heading 9817.0050 does not provide for parts. Well, that doesn't stop inquirers from claiming that their goods, goods that function as parts, are nevertheless within the meaning of the three terms. A case in point is HQ 086019 of March 24, 1990, in which the merchandise was a choker grapple and slack-pulling carriages used with log yarders in the logging industry. It was claimed that these goods were machinery, equipment or implements of heading 9817.0050. The articles were not excluded from heading 9817.0050 by operation of Note 2, Subchapter XVII, Chapter 98 and they were engaged in a legitimate agricultural pursuit, the transportation of harvested logs. The next determination to be made, as we have said, is what "machinery", "equipment" or "implement" performs the agricultural pursuit in question, in this case, the transportation of logs. Headquarters rightly observed that the log yarder was the machine, equipment or implement that moved the logs. The choker grapple and the slack-pulling carriage are necessary components of the log yarder. However, they were not the machine, equipment, or implement which fulfilled the task. The choker grapple and slack-pulling carriage by themselves did not accomplish the pursuit of transporting logs, but were merely components of the machine, equipment, or implement which did so. Since

they were held to be parts for the purposes of heading 9817.0050, and parts are not included therein, the two articles did not meet the second part of the test and thereby failed out of heading 9817.0050.

This same ruling reconsidered NY 834692 of January 9, 1989 concerning the classification of front end loaders for use with agricultural tractors. The front end loaders are intended for cleaning barns, moving hay and grain, feeding livestock and other farm uses. The front end loader incorporated a mounting frame and a specially designed bucket or other attachment unique to the frame in question. The mounting frame was installed onto the tractor and held the bucket or other attachment (hay grapple, pallet fork, bale fork, or spear). The mounting frame and the bucket when imported together were classified within subheading 8428.90.00, as "Other lifting, handling, loading or unloading machinery...Other machinery...." The bucket when imported separately is classified within subheading 8431.39.00, as "Parts suitable for use solely or principally with the machinery of headings of 8425 to 8430...Other..." Alternatively, if the required use certification of 19 CFR 10.138 is met, the mounting frame imported with the bucket may be classified within heading 9817.00.50. NY 834692 determined that the bucket, when imported separately, was not classifiable within heading 9817.00.50. Headquarters upheld this position saying that the "machinery", "equipment" or "implement" which performed the agricultural pursuit of moving farm yard items was the tractor with the front end loader. The bucket in question was merely a part of the machine, equipment or implement which performed the agricultural task. Therefore, the bucket was ineligible for the allowance of heading 9817.00.50.

A Headquarters ruling which makes the same examination as above and then turns to a consideration of the "rejected" part under heading 9817.00.60 is HQ 952440 of August 27, 1992. The articles in question were gear boxes, and their parts, to be incorporated into rotary mowers, post hole diggers and farm irrigation systems.

Headquarters rightly observed that these larger items were the machines, equipment or implements that did the mowing, digging or irrigating in agricultural pursuits. The gear boxes, although necessary components of the machines, equipment or implements that performed the pursuits, did not themselves fulfill the tasks. The gear boxes by themselves did not accomplish the pursuits of mowing, digging and irrigating, but were merely parts of the machines, equipment, or implements which do so. Therefore, the gear boxes did not meet the terms of heading 9817.00.50.

As we have said a few times, when Congress enacted the HTSUS and the two provisions that grant special treatment to articles used for agricultural and horticultural purposes, only heading 9817.00.60 specifically provided for parts. This specificity of parts within heading 9817.00.60 establishes that Congress considered the issue of parts of machinery. Since heading 9817.00.50 has no reference to parts it is evident that Congress did not intend that all items used as a part of agricultural or horticultural equipment should receive duty free treatment. See HQ 086883 of May 1, 1990 and HQ 087076 of June 14, 1990. With the exception of parts or components of functional units, only those parts which are actually used as parts of machinery of headings 8432, 8433, 8434 or 8436 will receive the benefit of the duty free provision of heading 9817.00.60.

Applying the 3-part test to the gear boxes and their parts it was found that they were not excluded from heading 9817.00.60 by operation of the exclusionary notes. Therefore, if the importer could establish that the rotary mowers, post hole diggers and irrigation systems which incorporate the gear boxes and parts were classified in one of the four mentioned headings of heading 9817.00.60, then the terms of the heading are met. Of the three articles, the importer could only satisfy Headquarters that the rotary mowers were classified in one of the four necessary headings. Rotary mowers for the mowing of grass or hay are classified in heading 8433 and therefore the gear boxes and parts of gear boxes to be incorporated into rotary

mowers would meet the terms of heading 9817.00.60. Parts of the gear boxes are also included since a part of a part is a part of the whole. *Flex Track Equipment, Ltd. and Border Brokerage Co., Inc. v. United States*, C.D. 4063 (1970). However, the gear boxes used with irrigation systems and post hole diggers are not included in heading 9817.00.60. Irrigation systems are classified in heading 8424 as "mechanical appliances...for projecting, dispersing or spraying liquids..." and post-hole diggers are classified in heading 8430 as "other moving, grading, leveling, scraping, excavating, tamping, compacting, extracting, or boring machinery..." Headings 8424 and 8430 are not listed in the language of heading 9817.00.60. Therefore, the gear boxes to be used with irrigation systems and post hole diggers were not entitled to duty free treatment under 9817.00.60.

Headquarters ruling 087849 of May 22, 1991, which classified rubber belting used on harvesting machinery, has a good discussion of the term "parts" and may be relied upon when interpreting that term, at least insofar as its impacts on a discussion of the term "parts" in heading 9817.00.60. Please note that the following statements are not an exhaustive discussion of the term "parts" and are not to be relied upon exclusively or completely:

A 'part' is an article which is an integral, constituent, component of a larger entity, and without the article being joined to the larger entity the larger entity could not function.... An unfinished or incomplete part which as entered has the essential character of the finished or complete part is to be classified under the HTSUSA as if it were the finished or complete part. GRI 2(a), HTSUSA.

The belting of this ruling was imported both in cut-to-specific lengths and in 100 meter rolls. As far as the belting in material lengths, Headquarters took the position that since the belting was material it could not meet the definition of the term "parts" as understood by the heading. The belting cut to strips, however, had the essential

character of a part and would meet the terms of the heading if it was actually used on the harvesting machinery, which was provided for in heading 8433.

There is an important "exception" to the rule that only those parts which are actually used as parts of machinery of headings 8432, 8433, 8434 or 8436 will receive the benefit of the duty free provision of heading 9817.00.60. That exception concerns articles which are parts or components of machines held to be classified in one of the four-named headings but which were classified therein by operation of Section XVI, Note 4, covering functional units. This Note states that:

[w]here a machine (including a combination of machines) consists of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables or by other devices) intended to contribute together to a clearly defined function covered by one of the headings in Chapter 84 or Chapter 85, then the whole falls to be classified in the heading appropriate to that function.

Headquarters has consistently held that there are no Legal Notes or Explanatory Notes which provide for unfinished or incomplete functional units. Because of this, their components must be classified in the separate headings describing them. See HQ 087077 of March 27, 1991. As an extension of this thinking, no article can be classified in 9817.00.60 if it is to be used in a machine of one of the four-named headings which is a functional unit by operation of Note 4 above. Since an unfinished functional unit cannot exist, likewise there can be no parts for a functional unit. A functional unit classified as such by operation of Section XVI, Note 4, exists, for tariff purposes, in and of itself and there is no provision, anywhere in the tariff, for an unfinished functional unit or for parts of functional units themselves. A case in point concerns an incomplete electric fence system. If imported in its entirety - the energizer, the fencing and its subcomponents, and the grounding system - such a system would be classified in

subheading 8436.80, as other agricultural machinery, by operation of Section XVI, Note 4. However, if components of the system are imported separately, they would not be classified in the parts provision of heading 8436, but in their own separate provisions. For the electric fence system, or any of its components, to be considered classifiable in heading 8436 it would have to be entered in a complete condition as a functional unit. Because the components of the electric fence system cannot be classifiable as parts of a functional unit, they do not qualify for duty-free treatment under heading 9817.00.60, since, basically, they don't conform to the term "parts". See HQ 960632 of October 27, 1997.

In summary for this part of the test, it is first necessary to identify the pursuit in question as either agricultural or horticultural, to then establish that there is a connection between the article and the agricultural or horticultural pursuit and lastly to determine whether the article **is** the machinery, equipment or implement which accomplishes that pursuit or whether it is a part to be used on machinery of the four named headings. That's it in a nutshell. Simple, right? Well, if you think so, you still have the third and final part of the test to take and studying for that one can keep you up all night just preparing.

Actual Use Certification

The last part of the test calls for compliance with the regulatory requirements governing actual use provisions as authorized by Additional U.S. Note of Interpretation 1(b), HTSUS, which we introduced at the beginning of this discussion. What this means in our case is that a good which is not excluded by the notes covering heading 9817.0050 or 9817.00.60 and which satisfies the terms of the relevant heading will qualify for the duty benefit of that heading if actual use for an agricultural or horticultural use is intended at the time of importation, the good is so used and the end-user or any one having knowledge of such use submits proof of that use within three years of importation. The pertinent Customs Regulations appear in sections 10.131 through 10.139. These are included in a separate section at the end of this discussion.

The first point to be made is that actual use for our purposes requires use for agricultural or horticultural purposes in an agricultural or horticultural setting. This does not necessarily have to be on a farm. Indeed many horticultural uses may be realized in domestic or home garden environments. However, the duty free provision is intended to benefit the use of a good employed for agricultural or horticultural purposes. Such a use will invariably take place in an agricultural or horticultural setting. HQ 953152 of March 15, 1993 dealt with, among other things, the use of agricultural weighing scales by veterinarians and by farmers. Headquarters had no problem with stating that the weighing of farm animals for the purpose of charting growth rates, detecting illnesses, determining sale price and so on was a legitimate agricultural purpose. It did have a problem with who uses them and where. The ruling stated that

[e]ntries under 9817.00.50 are not limited to actual use by a farmer on his farm. Actual use in an agricultural or horticultural pursuit is the test, regardless of the user....Thus, an actual use

certification for scales used by a veterinarian on a farm, either his farm or someone else's...would be acceptable for 9817.00.50 purposes, while a certification in his personal practice would not.

Thus it appears that the agricultural or horticultural purpose take place in a like environment. An agricultural or horticultural purpose cannot be satisfied except in a place suitable to that purpose. For example, a tool that might be used both on a farm to assist in the raising of livestock and in a slaughterhouse is one which would benefit from the heading 9817.00.50 claim in the agricultural environment but not in the marketing environment.

As we have said, sections 10.131 to 10.139 of the Customs Regulations provide the ground rules for the certification process. Section 10.134 deals with the first of the three conditions required to be met, that is, that actual use for the purpose claimed must be intended at the time of importation. The intention of use at the time of importation must be evidenced by a declaration of intent that is filed with the entry for consumption or for warehouse, or by entering the proper actual use subheading of the HTSUS on the entry form. Thus, either some form of statement by the importer evidencing intention of use or entering the merchandise under an actual use provision, in our case either heading 9817.0050 or 9817.00.60, is required in order for the requirement of §10.134 to be met. The posting of a missing document bond in lieu of either a statement of intent or entering the merchandise using an actual use subheading does not constitute a declaration of intent. See HQ 088178 of January 14, 1991. However, Headquarters has found that entering an article under an agricultural heading demonstrates an "intent of entering the merchandise for the use of agriculture." Thus, if merchandise is entered in a recognized agricultural subheading, such as 8436.80, which provides for other agricultural, horticultural or forestry machinery, and is later found to be classified elsewhere, this use of the agricultural heading would satisfy the requirement to declare intent.

The second and third requirements stipulating that an article be used as intended at entry and that proof be submitted within three years of entry is covered by § 10.138 of the Regulations, which states as follows:

Within 3 years from the date of entry or withdrawal from warehouse for consumption, the importer shall submit in duplicate in support of his claim for free entry or for a reduced rate of duty a certificate executed by (1) the superintendent or manager of the manufacturing plant, or (2) the individual end-user or other person having knowledge of the actual use of the imported article. The certificate shall include a description of the processing in sufficient detail to show that the use contemplated by the law has actually taken place. A blanket certificate covering all purchases of a given type of merchandise from a particular importer during a given period, or all such purchases with specified exceptions, may be accepted for this purpose, provided the importer shall furnish a statement showing in detail, in such a manner as to be readily identified with each entry, the merchandise which he sold to such manufacturer or end-user during such period.

Customs promulgated a decision covering the guidelines for determining the acceptability of certificates of actual use in C.S.D. 83-32 (HQ file 069623) of November 29, 1982. A copy of this decision is included in a separate section at the end of this discussion. Although these guidelines were issued for the Tariff Schedules of the United States (TSUS) covering items 870.40 and 870.45, the predecessors of headings 9817.0050 and 9817.00.60, they remain current Headquarters policy. The language of the headings remains unchanged and no different interpretation of that language is required under the HTSUS. This decision and certain rulings growing out of it are the basis of the following discussion.

The burden of satisfying the actual use certification requirement is on the importer. Certifications submitted for

each entry must be capable of substantiation by evidence of use that is acceptable to the Customs officer and verifiable from the importer's records or the records of a certifying person which are available to Customs through the importer. This information must be kept for a three year period following the liquidation of the entry (§10.137 of the Customs Regulations).

Certification of Machines, Equipment and Implements under Heading 9817.00.50

It is essential that an actual user either be engaged in an agricultural or horticultural pursuit or use the imported equipment only in agricultural or horticultural pursuits. Thus an actual user may be someone who is not a farmer but whose business is agricultural or horticultural in nature - for example, a contractor whose business is tilling or draining land for agricultural purposes. Similarly, multi-purpose equipment must be intended for use only in agricultural pursuits. For example, a trencher which may be used to dig irrigation ditches on farms in addition to a number of other, non-agricultural applications, may be accorded heading 9817.0050 status if it is intended to be used and is so used in agricultural pursuits only.

Certification of actual use may be accepted at the time of importation for an entry of articles if those articles are the subject of an existing contract of sale to an appropriate end user.

Some machines, equipment and implements are of such a nature that their use other than in agriculture or horticulture would be fugitive. They may not have been classified in the agricultural provisions because there was a more specific provision or because there was no agricultural provision which described them. There are more than 100 rulings on such articles. Greenhouse structures, grain bins, planters and animal vaccinators are but a few examples of such goods. These goods may be certified by the importer either individually or by using a

blanket certificate after all such imported articles are sold, whether to end users or to others who distribute to appropriate end users. It should be emphasized that certification of future use or probable use is not sufficient under the language of Additional U.S. Note 1(b), HTSUS. The actual use nature of these headings was specifically intended by the Congress when drafting them to make certain that the duty-free benefits would not be misdirected. Customs has recognized, however, that importations of certain of these articles, such as planters, could not feasibly be certified as to their actual use in accordance with the demanding statutory language. These articles are of the type which are imported in large shipments and then distributed to numerous wholesale or resale distributors. A certification by the importer which states that the article(s) may only be used for the agricultural or horticultural use for which they are intended may be accepted at the time of importation. The importer should be made aware that any knowledge of any other use should be brought to the attention of Customs.

Multiple use articles require that the importer certify or obtain a certificate which will indicate knowledge of the actual use or of the individual end user for each item. Certification can be satisfied by accounting and production records as long as the information is sufficient to show the disposition of the imported merchandise.

Certification of Parts under Heading 9817.00.60

Certification of actual use from importers and manufacturers of machinery of headings 8432, 8433, 8434 and 8436 may be made after the imported parts are used in the assembly or manufacture of that machinery. Acceptable accounting procedures must be used to identify the actual use of the goods. Replacement parts for goods of the specified headings may be certified by an importer if he shows evidence that the parts are specifically designed for the machines of the named headings and that other uses are fugitive and that the parts have been sold to other distributors of the replacement parts or to actual end users. Certification can be made at entry if there exists a contract between the importer and such distributors or users. Parts which may be used in machines other than those of the named headings or which have multiple uses may be certified only if the importer has knowledge of each end user or if the importer can submit certificates from each end user. Caution is once again urged with respect to parts or components of systems which are classified in one of the four-named headings because they are functional units under Section XVI, Note 4, that such parts or components cannot be classified in heading 9817.00.60.

Reasonable caution coupled with a willingness to be flexible should be enough to settle just about any certification problem without having to resort to administrative or judicial remedy. Evidence of the nature of the article, the network and level of distribution, accounting records and other commercial data will be sufficient in most cases to permit certification of the merchandise during the three year window if not at the time of entry.

Below are the Customs Regulations governing actual

use and the Customs Service Decision² on guidelines for the acceptability of actual use certificates. Generally, certificates will be accepted in any format so long as they satisfactorily establish the facts of the case and can be proven by the importer if need be.

Pertinent Customs Regulations

§10.131 Circumstances in which applicable.

The provisions of §§10.131 through 10.139 are applicable in those circumstances in which the rate of duty applicable to merchandise is dependent upon actual use, unless there is a specific provision in this part which governs the treatment of the merchandise. However, specific marking or certification requirements, such as those for bolting cloths in section 10.58, may be applicable to merchandise subject to the provisions of sections 10.131 - 10.139.

Authority: [T.D. 71 - 139, 36 FR 10726, June 2, 1971, as amended by T.D. 86 - 118, 51 FR 22515, June 20, 1986]

§10.132 [Reserved]

§10.133 Conditions required to be met.

When the tariff classification of any article is controlled by its actual use in the United States, three conditions must be met in order to qualify for free entry or a lower rate of duty unless the language of the particular subheading of the Harmonized Tariff Schedule of the United States applicable to the merchandise specifies other

² Although the guidelines included in the Customs Service Decision below were issued for entry of merchandise under the Tariff Schedules of the United States (TSUS), TSUS items 870.40 and 870.45 were the predecessors of headings 9817.0050 and 9817.00.60, HTSUS, and remain Customs policy. The language of the headings remains unchanged and no different interpretation of that language is required under the HTSUS.

conditions. The conditions are that:

- (a) Such use is intended at the time of importation.
- (b) The article is so used.
- (c) Proof of use is furnished within 3 years after the date the article is entered or withdrawn from warehouse for consumption.

Authority: [T.D. 71 - 139, 36 FR 10726, June 2, 1971, as amended by T.D. 89 - 1, 53 FR 51252, Dec. 21, 1988]

§10.134 Declaration of intent.

A showing of intent by the importer as to the actual use of imported merchandise shall be made by filing with the entry for consumption or for warehouse a declaration as to the intended use of the merchandise, or by entering the proper subheading of an actual use provision of the Harmonized Tariff Schedule of the United States (HTSUS) and the reduced or free rate of duty on the entry form. Entry made under an actual use provision of the HTSUS may be construed as a declaration that the merchandise is entered to be used for the purpose stated in the HTSUS, provided the port director is satisfied the merchandise will be so used. However, the port director shall require a written declaration to be filed if he is not satisfied that merchandise entered under an actual use provision will be used for the purposes stated in the HTSUS.

Authority: [T.D. 71 - 139, 36 FR 10726, June 2, 1971, as amended by T.D. 89 - 1, 53 FR 51252, Dec. 21, 1988]

§10.135 Deposit of duties.

When the requirement of §10.134 has been met the merchandise may be entered or withdrawn from warehouse for consumption without deposit of duty when proof of use will result in free entry, or with deposit of duty at the lower rate when proof of use will result in a lower rate of duty.

Authority: [T.D. 71 - 139, 36 FR 10726, June 2, 1971, as amended by T.D. 84 - 213, 49 FR 41166, Oct. 19, 1984]

§10.136 Suspension of liquidation.

Liquidation of an entry covering merchandise for which a declaration of intent has been made pursuant to §10.134 and any required deposit of duties made, shall be suspended until proof of use is furnished or the 3-year period allowed for production thereof has expired.

Authority: [T.D. 71 - 139, 36 FR 10726, June 2, 1971]

§10.137 Records of use.

(a) Maintenance by importer. The importer shall maintain accurate and detailed records showing the use or other disposition of the imported merchandise. The burden shall be on the importer to keep records so that the claim of actual use can be readily established.

(b) Retention of records. The importer shall retain records of use or disposition for a period of 3 years from the date of liquidation of the entry.

(c) Examination of records. The records required to be kept by paragraph (a) of this section shall be available at all times for examination and inspection by an authorized Customs officer.

Authority: [T.D. 71 - 139, 36 FR 10726, June 2, 1971]

§10.138 Proof of use.

Within 3 years from the date of entry or withdrawal from warehouse for consumption, the importer shall submit in duplicate in support of his claim for free entry or for a reduced rate of duty a certificate executed by (1) the superintendent or manager of the manufacturing plant, or (2) the individual end-user or other person having knowledge of the actual use of the imported article. The certificate shall include a description of the processing in sufficient detail to show that the use contemplated by the law has actually taken place. A blanket certificate covering all purchases of a given type of merchandise from a particular importer during a given period, or all such purchases with specified exceptions, may be accepted for this purpose, provided the importer shall furnish a statement showing in detail, in such manner as to be readily identified with each entry, the merchandise which

he sold to such manufacturer or end-user during such period.

Authority: [T.D. 71 - 139, 36 FR 10727, June 2, 1971]

§10.139 Liquidation.

(a) In general. Upon satisfactory proof of timely use of the merchandise for the purpose specified by law, the entry shall be liquidated free of duty or at the lower rate of duty specified by law. When such proof is not filed within 3 years from the date of entry or withdrawal from warehouse for consumption, the entry shall be liquidated dutiable under the appropriate subheading of the Harmonized Tariff Schedule of the United States.

(b) Exception for blackstrap molasses.

Authority: [T.D. 71 - 139, 36 FR 10727, June 2, 1971, as amended by T.D. 89 - 1, 53 FR 51252, Dec. 21, 1988]

C.S.D. 83-32 - HQ Letter 069623

NOVEMBER 29, 1982

CLA-2 CO:R:CV:G
069623 JLV

Re: Guidelines for Determining the Acceptability of
Certificates of Actual Use Submitted for Entries
Made Under Items 870.40 and 870.45

Dear Sir:

In order to provide uniformity in the requirements for acceptance of actual use certification for entries under item 870.40 and 870.45, Tariff Schedules of the United States (TSUS), specific guidelines have been established. These guidelines are issued in response to a request for advice from the District Director, Pembina, dated November 4, 1981.

The scope of item 870.40, is limited by Headnote 2 (Schedule 8, Part 7) and by the intent of Congress to those articles which are described in 666.00, but are not classifiable thereunder because they are not chiefly used in agricultural and horticultural pursuits or are provided for under a more specific tariff provision. Therefore, the scope of item 870.40 is controlled by the headnote exceptions and the various judicial, administrative, and legislative decisions affecting item 666.00. Actual use, in this case, requires use by an individual for agricultural or horticultural purposes.

The scope of 870.45 is somewhat different. It provides for parts of articles provided for in item 666.00. The term "provided for" is more narrowly construed than the term "described" and refers to articles classifiable in item 666.00. Furthermore, parts imported under 870.45 need only be certified as to actual use in 666.00 articles. Actual use in agricultural or horticultural pursuits is not

the controlling issue in 870.45 certification. Actual use, in this case, requires only that the imported parts be used in articles classifiable in item 666.00, whether or not the articles are used in agricultural or horticultural pursuits.

The certification requirements for items 870.40 and 870.45 are to be reasonably tied to the circumstances of each case. Factors to be considered include the nature of an imported article, level of distribution, value and size of an importation. All of these elements and other relevant factors must be considered. In many cases the nature of an article as a replacement part for agricultural equipment will be apparent. For example, articles that are specially designed or have a designated part number can be reasonably identified to be destined for use on a specific article which is provided for in item 666.00. Furthermore, importation and distribution to factory-authorized parts dealers is reasonable evidence that the components will be used in the equipment for which they are designated. If the imported parts have more than a fugitive application to equipment other than agricultural equipment, then the level of distribution could narrow the extent of the claim for 870.45 treatment. Other factors considered relevant by the Customs officer at the port of entry may be used to consider whether an importer would have sufficient knowledge of actual use without obtaining separate statements from the individual users. This illustration is but one example of how factors are to be considered as relevant for an entry under 870.45, in which an importer certifies as to actual use.

The burden of satisfying the actual-use certification requirement is on the importer. The importer is, for Customs audit purposes, the only one who can be directly audited on an entry. Therefore, the certifications submitted for each entry must be substantiated by evidence of use acceptable to Customs and verifiable from the importer's records or the records of a certifying person which are available to Customs through the importer. However, in some cases, such as those involving certain types of replacement parts, there will be sufficient evidence of

"knowledge" on the part of the importer or certifier that will be acceptable even though the parts have not been actually traced to each end user. Furthermore, Customs will only accept an entry for the percentage of articles which can be reasonably shown by the importer to be destined for use within the meaning of 870.40 and 870.45.

Because the importer remains liable at all times, it is important that the importer be aware of the claims being made on the certificate of actual use. If an importer is in doubt, he should request a ruling from Headquarters. For example, a replacement part may be imported for a piece of farm equipment which is not provided for in item 666.00. In such case item 870.45 would not apply.

With these considerations in mind, the following guidelines should be used as the basis for acceptance of certification of actual-use:

Item 870.40

1. Certification of actual-use may be accepted at the time of importation for an entry of articles imported under item 870.40 if the articles are the subject of an existing contract of sale to an appropriate end user. The importer-seller may certify actual-use to Customs on this basis.
2. Some articles described in item 666.00 are not so classifiable because there is a more specific provision. These articles may be shown to be of a kind solely used for agricultural or horticultural purposes because of size, construction, capacity, type of distribution (if any), and type of market in the area of distribution. Any other use would be fugitive. Upon submission of evidence as to the use of these articles (i.e., silos,

grain bins, heaters), an importer may submit certification of actual-use after all such imported articles are sold, whether to end users or to others who distribute to appropriate end users.

3. Multi-purpose articles entered under item 870.40 require that an importer certify or obtain a certificate which will indicate knowledge of the actual use or of the individual end user for each item. Such articles, for example, would include land leveling equipment, nonagricultural scrapers, general purpose steel buildings, and other equipment which can be used for agricultural or horticultural purposes.

Item 870.45

4. Certification of actual-use is accepted from importers and manufacturers of 666.00 equipment after the imported parts are used in the assembly or manufacture of 666.00 equipment. The certifying party must be able to show that the imported articles were shipped to the manufacturer's plant, were entered into its inventory, and were withdrawn for production purposes. Acceptable FIFO accounting procedures are sufficient to identify use of the imported articles.
5. Replacement parts for 666.00 equipment may be certified as to actual-use by an importer if he submits evidence that a) the parts are specially designed for the 666.00 equipment and other uses are merely fugitive, b) and the parts have been sold by the

importer to other distributors of the replacement parts or to actual end users. Certification of actual-use may be made at entry if the parts are the subject of an existing contract of sale by the importer to such distributors or users.

6. Replacement parts which have possible application equipment not provided for in item 666.00 may be certified as to actual-use by an importer if he submits evidence that a) the imported parts are identified by a replacement part number or catalogue for specific application to 666.00 equipment, and b) have been sold to factory-authorized or similar retail or wholesale distributors of replacement parts for the specific 666.00 equipment.
7. Certification of actual-use for replacement parts which have application to multiple types of equipment and machinery would normally be acceptable from an importer only if the importer has knowledge of each end user or if the importer can submit statements of use from each end user. If, however, an importer can identify a distributor, to whom all or part of the imported articles are sold, as one who sells only replacement or repair parts for 666.00 equipment, then certification would be acceptable.

These guidelines permit certification of actual-use by an importer for many situations before the imported articles reach the end-users. This position is based on two primary determinations. First, evidence of a sale to an appropriate

end-user or distributor is sufficient evidence of actual-use even though the articles have not yet been delivered. The articles have been entered into the chain of commerce which will result in the required end use. Second, certain practical considerations are necessary to make items 870.40 and 870.45 economically viable preferential provisions intended by Congress. Evidence of the nature of the articles, method of distribution, and other commercial data will be sufficient in most cases to permit certification of actual-use at the time the articles are entered into the commercial channels which lead to the desired end-use. If an importer cannot demonstrate that the normal course of trade for the articles in question will result in the intended actual-use as required by item 870.40 or 870.45, then the importer will have to trace the articles further along the distribution route before certification of actual-use can be made.

These guidelines do not propose to cover all situations. Not every article intended for agricultural or horticultural purposes will necessarily be given duty-free treatment. Congress has even stated that despite the overriding intent to provide duty-free treatment for agricultural articles, some articles will not be included. However, these guidelines are intended to give effect to the intent of 870.40 and 870.45 by reducing the economic and administrative burden on both importers and the Customs Service.

Sincerely,

Robert P. Schaffer
Assistant Commissioner
Commercial Operations

Additional Information

Customs Electronic Bulletin Board

The Customs Electronic Bulletin Board (CEBB) is an automated system which provides the entire trade community with current, relevant information regarding Customs operations and items of special interest. It was established as another effort to promote the Customs Service as "trade friendly" within the importing and exporting community. The CEBB posts timely information including proposed regulations, news releases, Customs publications and notices, etc which may be "downloaded" to your own PC. The Customs Service does not charge the public to use the CEBB. You only pay telephone charges. The CEBB may be accessed by modem or through Customs Home Page on the World Wide Web. If you access it by modem, you must have a personal computer with a modem. The CEBB supports modem speeds from 2400 to 28,800 baud. Set up your terminal as ANSI, set databits to 8, set parity to N and stopbits to 1. Dial (703) 921-6155 and log on with your name and choose a password. After a few questions, you are set to get up-to-date information from Customs. If you have any questions about the CEBB, call (703) 921-6236.

The Internet

The Customs home page on the Internet's World Wide Web --which began public operation on August 1, 1996-- will also provide the entire trade community with current, relevant information regarding Customs operations and items of special interest. It was established as another effort to promote the Customs Service as "trade friendly" within the importing and exporting community. The home page will post timely information including proposed and final regulations, rulings, news releases, Customs publications and notices, etc., which may be searched, read online, printed or "downloaded" to your own PC. In addition, the CEBB (see above) may be accessed through our

Home Page. The Customs Service does not charge the public for this service, although you will need Internet access to use it. The Internet address for Customs home page is **<http://www.customs.ustreas.gov>**.

Customs Regulations

The current edition of *Customs Regulations of the United States*, in loose-leaf format, is available by subscription from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. The bound 1997 Edition of Title 19, *Code of Federal Regulations*, which incorporates all changes to the *Customs Regulations* from April, 1996 through March, 1997 is also available for sale from the same address. All proposed and final regulations are published in the *Federal Register* which is published daily by the Office of the Federal Register, National Archives and Records Administration, and distributed by the Superintendent of Documents. Information on on-line access to the *Federal Register* may be obtained by calling (202) 512-1530 between 7 a.m. and 5 p.m. Eastern time. These notices are also published in the weekly *Customs Bulletin* described below.

Customs Bulletin

The *Customs Bulletin and Decisions* ("Customs Bulletin") is a weekly publication which contains decisions, rulings, regulatory proposals, notices and other information of interest to the trade community. It also contains decisions issued by the U. S. Court of International Trade and Customs related decisions of the U. S. Court of Appeals for the Federal Circuit. Bound volumes are issued annually. The Customs Bulletin is available for sale from the Superintendent of Documents.

Video Tapes

The U.S. Customs Service has prepared a two hour video tape in VHS format to assist Customs officers and

members of the public in understanding the new ***Rules of Origin for Textiles and Apparel Products*** which became effective on July 1, 1996. Copies of this tape are available from many trade organizations, customs brokers, consultants and law firms. The tape may also be purchased for \$20.00 (U.S. funds) directly from the Customs Service. If you require further information, or would like to purchase one or more tapes, please forward your written request to: U.S. Customs Service, Office of Regulations and Rulings, 1300 Pennsylvania Avenue, NW, Washington, DC 20229, Attn: Operational Oversight Division. Orders must be accompanied by a check or money order drawn on a U.S. financial institution and made payable to U.S. Customs Service.

In order to assist the trade, Customs has prepared a video tape entitled "Customs Compliance: Why You Should Care." This 30 minute tape is divided into two parts. Part I, almost 18 minutes in length, is designed to provide senior executives and others in importing and exporting companies with an overview of some significant features of the Customs "Modernization Act" and some major reasons for adopting new strategies for minimizing legal exposure under this Act. Part II is intended primarily for compliance officers, legal departments and company officers involved in importing and exporting. This latter Part, approximately 12 minutes in length, explains why Customs and the trade can benefit from sharing responsibilities under Customs laws and it provides viewers with some legal detail relating to record keeping, potential penalties for non-compliance, and Customs Prior Disclosure program.

Part I features former Customs Commissioner George Weise, Assistant Commissioner for Regulations and Rulings Stuart Seidel, and Motorola's Vice President and Director of Corporate Compliance, Mr. Jack Bradshaw. Assistant Commissioner Seidel is the only speaker in Part II.

The tape is priced at \$15.00 including postage. New orders, complete with payment in the form of a check or money order, should be addressed to the U.S. Customs

Service, Office of Regulations and Rulings, Attention:
Operational Oversight Division, 1300 Pennsylvania Avenue,
NW, Washington, D.C. 20229.

Informed Compliance Publications

The U. S. Customs Service has also prepared other Informed Compliance publications in the *What Every Member of the Trade Community Should Know About*: series, which are available from the Customs Electronic Bulletin Board and the Customs Home Page (see above). As of the date of this publication, the following booklets were available:

- # Fibers & Yarns
- # Buying & Selling Commissions
- # NAFTA for Textiles & Textile Articles
- # Raw Cotton
- # Customs Valuation
- # Textile & Apparel Rules of Origin
- # Mushrooms
- # Marble
- # Peanuts
- # Caviar
- # Bona Fide Sales & Sales for Exportation
- # Caviar
- # Granite
- # Internal Combustion Piston Engines
- # Vehicles, Parts and Accessories
- # Articles of Wax, Artificial Stone and Jewelry
- # Tariff Classification
- # Festive Articles
- # Ribbons & Trimmings
- # Agricultural Actual Use

Check the Customs Electronic Bulletin Board and the Customs Home Page for more recent publications.

Other Value Publications

Customs Valuation under the Trade Agreements Act of 1979 is a 96-page book containing a detailed narrative description of the customs valuation system, the customs valuation title of the Trade Agreements Act (§402 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (19 U.S.C. §1401a)), the Statement of Administrative Action which was sent to the U.S. Congress in conjunction with the TAA, regulations (19 C.F.R. §§152.000-152.108) implementing the valuation system (a few sections of the regulations have been amended subsequent to the publication of the book) and questions and answers concerning the valuation system. A copy may be obtained from the U.S. Customs Service, Office of Regulations and Rulings, Value Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229.

Customs Valuation Encyclopedia (with updates) is comprised of relevant statutory provisions, Customs Regulations implementing the statute, portions of the Customs Valuation Code, judicial precedent, and administrative rulings involving application of valuation law. A copy may be purchased for a nominal charge from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7054.

Additional information may be obtained from Customs ports of entry. Please consult your telephone directory for a Customs office near you. The listing will be found under U.S. Government, Treasury Department.

<p>The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs issues, an importer may wish to obtain a ruling under Customs Regulations, 19 C.F.R. Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in Customs matters. Reliance</p>
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solely on the general information in this pamphlet may not be considered reasonable care.

“Your Comments are Important”

The Small Business and Regulatory Enforcement Ombudsman and 10 regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement activities and rate each agency’s responsiveness to small business. If you wish to comment on the enforcement actions of U.S. Customs, call 1-888-REG-FAIR (1-888-734-3247).